IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE EIGHTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT APPEAL NO : 1625 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 10/08/2004 in WP NO : 14059 OF 2004 on the file of the High Court.)

Between:

Zainab Khatoon, W/o. Iftikhar Mehdi Khan,
Tukkuguda, Hamlet of Mankhal Village, Maheswaram Mandal, R.R.District,
Now R/o. H.No.3-6-230,16th Street, Himayathnagar, Hyd.

..... APPELLANT

AND

1 Joint Collector, R.R.District, Near Lakdi-ka-pool, Saifabad, Hyd.
2 Revenue Divisional Officer, East R.R.Dsitrict, Nalakunta, Goshamahal Road, Hyd.
3 Immidi Ramulu, S/o. Mallesh @ Mallaiah Tukkuguda, Mankhal Vill, Maheswaram Mandal, R.R.District.

.....RESPONDENT(S)

Counsel for the Appellant:MR.A.RAMALINGESWAR RAO

Counsel for the Respondent Nos.1 and 2: GP FOR REVENUE

Counsel for the respondent No.3: None appeared

The Court made the following Oral Judgment: (per Sri Devinder Gupta, CJ)

The 3rd respondent, at this stage, is not a necessary party. Therefore, no notice is being issued to him.

Appellant filed the writ petition questioning the orders passed on 23.3.2004 by the 1st respondent declining to entertain the appeal against the order of Revenue Divisional Officer, Ranga Reddy District, dated 8.10.1982, in respect of land bearing Survey No.91 admeasuring Ac.16.26 guntas situated in Mankhal Village, Ranga Reddy District.

Learned single judge dismissed the writ petition on the ground that if the appellant-petitioner was really in possession of land and by reason of the O.R.C. issued by the Inams Tribunal, if the 3rd respondent had initiated necessary action, appellant would not have kept quiet without approaching the appellate authority. This is only an inference, which the learned single judge had made without any foundation. Learned single judge also took note of the fact that appellant, in fact, had presented appeal on 8.9.2003, whereas, even according to the appellant's own version, she came to know of the order of the Revenue Divisional Officer, for the first time, on 16.1.2003.

Learned counsel for the appellant has drawn our attention to the memorandum of appeal presented before the Joint Collector, Ranga Reddy District, which is dated 18.1.2003. After filing of the appeal, it appears, separate application seeking condonation of delay was filed on 8.9.2003 alleging that appellant came to know about the orders of the Revenue Divisional Officer only on 6.1.2003, on which

date, she applied for certified copy of the said orders.

Thus, the learned single judge presumed certain facts which are not on record and declined to exercise the writ jurisdiction. Therefore, in a matter of appeal filed by the appellant before the 1st respondent, the only person aggrieved would be the 3rd respondent, who alone was the respondent in the appeal before the 1st respondent and the 1st respondent ought not to have dismissed the appeal as time barred without issuing notice to the 3rd respondent and without giving any opportunity to the 3rd respondent to meet the objections raised in the appeal. Otherwise, the appeal was preferred within time limit. It was on record that first time appellant came to know about the order of the Revenue Divisional Officer dated 8.10.1982 only on 6.1.2003, which was passed without any notice to the appellant. Therefore, the appeal would be within the time. As such the order of the learned single judge as well as the 1st respondent are liable to be set aside.

The writ appeal is allowed. The impugned order of the learned single judge is set aside. The order dated 23.3.2004 of the 1st respondent-Joint Collector, Ranga Reddy District, dismissing the appeal of the appellant as time barred is set aside with a direction to the appellate authority to hear and dispose of the appeal filed by the appellant in accordance with law after giving notice to the respondent in the said appeal and after hearing the objections if any.

The writ appeal is accordingly allowed. No costs.

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DEVINDER GUPTA, CJ

Date: 8th November, 2004

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C.V.RAMULU,J

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To

1 The Joint Collector, R.R.District, Near Lakdi-ka-pool, Saifabad, Hyderabad.

2 The Revenue Divisional Officer, East R.R.Dsitrict, Nalakunta, Goshamahal Road, Hyderabad.

3 . Two C.Cs. to the Government Pleader for Revenue, High Court Buildings, Hyderabad. (OUT)

4. Two C.D. copies